



Office of Thrift Supervision
Department of the Treasury

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Director

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MEMORANDUM FOR: Chief Executive Officers

FROM: Nicolas P. Retsinas *Nicolas P. Retsinas*

SUBJECT: Federal Fair Housing Act – Thirtieth Anniversary

In 1998 we will celebrate the thirtieth anniversary of the Federal Fair Housing Act. As the anniversary date approaches, I think it is helpful to review the additional steps we have taken and can take to eradicate discrimination. Given the principal business of the thrift industry – providing housing-related financing – thrift executives need to make a special effort to ensure that no illegal barriers impede home financing. Few things in one's personal financial goals are more important than home ownership. I would like to take a few moments to give you our perspective on this important issue and highlight actions you should take to ensure that your institution meets its fair lending obligation.

In the last several years, OTS has made eight referrals to the Department of Justice for alleged discrimination based on race, national origin or age. We have uncovered substantial fair lending issues affecting many people including racial redlining and discriminatory pricing for mortgages. Although I believe that discrimination is the exception in our industry, we must be vigilant to ensure that race and other prohibited factors do not play any role in mortgage lending decisions. These referrals underscore the need to do more. Together, we must work diligently to eliminate any remaining vestiges of discrimination in the provision of credit.

Illegal credit discrimination may take many forms. It can be overt or subtle. It can be intentional or unintentional. It can be practiced as a matter of corporate culture or by only one employee. It can be a carry-over from policies adopted by a former management team. It can affect a single customer or an entire market. It can arise in the subjective decisions made by lending personnel when dealing with credit applicants presenting less than perfect credit criteria.

The Equal Credit Opportunity Act ("ECOA"), the Fair Housing Act and OTS's nondiscrimination regulations flatly prohibit discrimination and mandate that all creditworthy applicants have equal access to the availability of credit. The OTS and the thrift industry each have significant responsibilities under these laws and regulations. In coordination with the other federal banking agencies, we are developing and testing new fair lending examination procedures to better detect lending discrimination. And under the ECOA,

the OTS and the other federal banking agencies must refer matters to the Department of Justice whenever the agency has reason to believe that an institution has engaged in a pattern or practice of discouraging or denying applications for credit in violation of the ECOA. Even if the matter does not involve a pattern or practice of discrimination, the OTS and the other banking agencies must refer the matter to the Department of Housing and Urban Development if the agency has reason to believe that there has been a violation of the ECOA that would also be a violation of the Fair Housing Act.

You must ensure that fair lending is engrained in your corporate culture and that the principles and requirements of these laws are an integral part of your day-to-day business practices. Maintaining strong, effective corporate leadership on this issue is an essential step toward sending the message to line personnel about the importance of compliance with these laws.

Do not assume you are in compliance. A good heart is not enough. If you have not done so recently, I encourage you to review your policies and practices to ensure that they are firmly grounded in legitimate business considerations. If a policy or practice – for example – has a significant disproportionate adverse impact because of race, it is not enough to say “we’ve always done it that way.”

Specific policies that support nondiscriminatory lending, backed by an internal commitment at all levels of the organization, can help to create an atmosphere of sensitivity and awareness. You should review and, as needed, update existing underwriting standards and lending criteria. Making fair lending part of your corporate training program with periodic refresher courses will help keep employees apprised of new developments in the area. Conducting independent reviews of borderline applications will help ensure fairness and equity in the credit evaluation process. These are some of the more important tasks for thrift management.

The OTS is committed to fair lending for all. I welcome your suggestions on how the OTS and the industry can work together to achieve our common objective: equitable access to credit for all who qualify.